



smith & hopen, p.c.

Intellectual Property Law Patents Trademarks Copyrights

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January 28, 2004

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Applicant: David W. Pratt
Serial No.: 09/681,814
Filed: 06/11/2001
For: Dual Function Bailer
Our Reference No.: 1053.18

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FEB 10 2004

GROUP 3600

Examiner: Dean J. Kramer
Art Unit: 3652
Confirmation No.: 6882

Dear Sir:

In response to the Decision on Petition to Withdraw the Holding of Abandonment mailed on January 20, 2004, we enclose the following:

1. Statement of Facts In Support of Timely Filed Response to the Office Action dated December 24, 2002 having a Certificate of Mailing dated January 28, 2004;
2. Copy of response to non-final examiner's action having a Certificate of Facsimile Transmission dated March 14, 2003 (9 pages);
3. Copy of Auto-Reply Facsimile Transmission indicating timely receipt by the Office (1 page); and
4. Self-addressed and postage pre-paid post card to serve as a receipt for items 1 and 3.

Very respectfully,

SMITH & HOPEN

By: Ronald E. Smith

ron.smith@baypatents.com

RES/sb

Encl.

CERTIFICATE OF MAILING
(37 C.F.R. 1.8)

I HEREBY CERTIFY that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 28, 2004.

Date: January 28, 2004



Practitioner's Docket No.: 1053.18

PATENTS

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
David W. Pratt
Serial No.: 09/681,814
Filed: 06/11/2002
For: Dual Function Bailer

Examiner: Dean J. Kramer
Art Unit: 3652
Confirmation No. 6882

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FEB 10 2004

GROUP 3600

Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION OF FACTS IN SUPPORT OF TIMELY FILED RESPONSE TO
OUTSTANDING OFFICE ACTION DATED DECEMBER 24, 2002

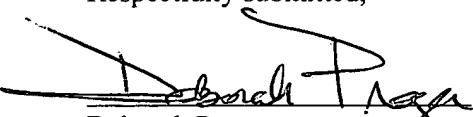
I, Deborah Preza, hereby state the following:

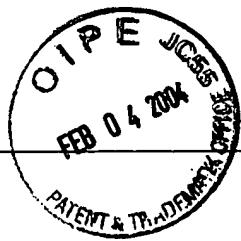
The original response to the non-final examiner's action mailed on December 24, 2004 was timely transmitted to the Office's Official Facsimile Number for the Technology Center 3600 having a Certificate of Facsimile Transmission dated March 14, 2003.

DECLARATION

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,


Deborah Preza
Smith & Hopen, PA
15950 Bay Vista Drive
Suite 220
Clearwater, Florida 33760



CERTIFICATE OF MAILING

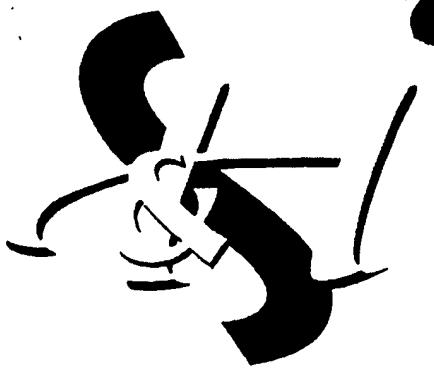
(37 CFR § 1.8)

I HEREBY CERTIFY that this correspondence is being deposited with the United States Postal Service as first class mail in envelope addressed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 28, 2004

Date: **January 28, 2004**

Shelley Butz
Shelley Butz

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FEB 10 2004
GROUP 3600



smith & hopen, p.a.

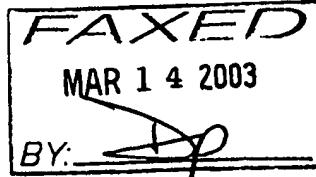
15950 Bay Vista Drive, Suite 220
Clearwater, Florida 33760
727.507.8558 Tel
727.507.8668 Fax
www.baypatents.com

COPY

Fax INTELLECTUAL PROPERTY LAW

To: U.S. Patent & Trademark Office From: Ronald E. Smith
Attn: DeanJ. Kramer - Art Unit 3652 Client: 1053.18
Fax: (703) 872-9326 Pages: 9 including coversheet
Phone: (703) 308-2181 Date: March 14, 2003
Re: USSN 09/681,814 CC: David W. Pratt

Urgent For Review Please Comment Please Reply Please Recycle



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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: David W. Pratt

Serial No.: 09/681,814

Filed: 06/11/2001

For: Dual Function Baller

Art Unit: 3652
Examiner: Kramer, Dean J.

COPY

Faxed to Technology Center 3700 at (703) 872-9326
Box Non-Fee Amendment
Assistant Commissioner for Patents
Washington, D.C. 20231

AMENDMENT TRANSMITTAL

1. Transmitted herewith is an amendment for this application.

STATUS

2. Applicant is an independent inventor. A statement was already filed.

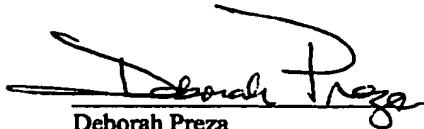
EXTENSION OF TERM

3. The proceedings herein are for a patent application and the provisions of 37 C.F.R. 1.136 apply. Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition for extension of time.

CERTIFICATE OF FACSIMILE TRANSMISSION
(37 C.F.R. 1.8(a))

I HEREBY CERTIFY that this Amendment A, including Introductory Comments, Amendments to the Claims, and Remarks, is being transmitted by facsimile to the United States Patent and Trademark Office, Art Unit 3652, Attn: Dean J. Kramer, (703) 872-9326 on March 14, 2003.

Dated: March 14, 2003


Deborah Preza



COPY

FEE FOR CLAIMS

4. The fee for claims (37 C.F.R. 1.16(b)-(d)) has been calculated as shown below:

(Col. 1)	(Col. 2)	(Col. 3) SMALL ENTITY		
Claims Remaining After Amendment	Highest No. Previously Paid For	Present Extra	Rate	Addit. Fee
Total 1	Minus 20	= 0	x \$9 =	\$0
Indep. 1	Minus 3	= 0	x \$42 =	\$0
First Presentation of Multiple Dependent Claim			+ \$140 =	\$0
			Total Addit. Fee	\$0

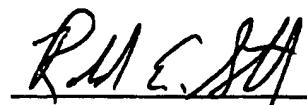
- * If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3,
- ** If the "Highest No. Previously Paid For" IN THIS SPACE (Column 2, Row 1) is less than 20, enter "20".
- *** If the "Highest No. Previously Paid For" IN THIS SPACE (Column 2, Row 2) is less than 3, enter "3".

The "Highest No. Previously Paid For" (Total or Indep.) is the highest number found in the appropriate box in Col. 1 of a prior amendment or the number of claims originally filed.

No additional fee for claims is required.

FEE DEFICIENCY

5. If any additional extension and/or fee is required, charge Deposit Account No. 500745.
 If any additional fee for claims is required, charge Deposit Account No. 500745.



SIGNATURE OF PRACTITIONER

Reg. No. 28,761
 Tel. No.: (727) 507-8558

Ronald E. Smith
 Smith & Hopen, P.A.
 15950 Bay Vista Drive, Ste. 220
 Clearwater, FL 33760



UNITED STATES PATENT AND TRADEMARK OFFICE

JAN 20 2004

SMITH & HOPEN PA
15950 BAY VISTA DRIVE
SUITE 220
CLEARWATER, FL 33760



MAILED

JAN 20 2004

OFFICE OF THE DIRECTOR
TC 3600

Paper No. 7

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

In re Application of
David W. Pratt
Application No. 09/681,814
Filed: June 11, 2001
For: DUAL FUNCTION BAILER

: DECISION ON PETITION
: TO WITHDRAW THE
: HOLDING OF ABANDONMENT

This is a decision on applicant's response filed September 3, 2003 which has been treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

A review of the file record indicates that the application was held abandoned for failure to timely file a proper response to the Office action dated December 24, 2002 and a Notice to that effect was mailed on August 19, 2003.

Petitioner states that a response was filed on March 14, 2003 by facsimile transmission. The copy of the response submitted with the petition includes a Certificate of Transmission dated March 14, 2003 and a USPTO return facsimile receipt dated the same.

However the USPTO return facsimile receipt does not specify what was submitted by applicant.

Any petition to withdraw the holding of abandonment based upon a Certificate of Transmission by facsimile must include the following requirements:

- (1) A copy of the original response bearing a signed Certificate of Transmission which includes the date of signing; and
- (2) A statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of transmitting the original response on the date indicated on the Certificate of Transmission (see 37 CFR 1.8 and MPEP 512).

While meeting requirement (1) above the petition fails, under requirement (2), to also include a statement under 37 CFR 1.8(b)(3) attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate, by the person who signed the certificate.

Therefore a statement under 37 C.F.R. 1.8(b)(3), as noted above, is needed from Deborah Preza attesting to the personal knowledge of sending the original response by facsimile transmission on the date indicated on the certificate for the petition to be granted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(b) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition to Withdraw the Holding of Abandonment Under 37 CFR 1.81."



Kenneth J. Dorner
Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(703) 308-0866

KJD/cps: 1/14/03

TO:Auto-reply fax to 7275078668 COMPANY:

COPY

Auto-Reply Facsimile Transmission



TO:

Fax Sender at 7275078668

Fax Information

Date Received:

3/14/03 3:10:42 PM [Eastern Standard Time]

Total Pages:

9 (including cover page)

ADVISORY: This is an automatically generated return receipt confirmation of the facsimile transmission received to the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received
Cover
Page
=====>

03/14/2003 03:08 FAX 7275078668		Smith & Hopen, P.A.	001/008																								
 <p>smith & hopen, p.a. 16950 Bay Vista Drive, Suite 220 Clearwater, Florida 33760 727.507.8558 Tel 727.507.8468 Fax www.baypatents.com</p>																											
<p>Fax INTELLECTUAL PROPERTY LAW</p> <table border="1"> <tr> <td>To:</td> <td>U.S. Patent & Trademark Office</td> <td>From:</td> <td>Ronald E. Smith</td> </tr> <tr> <td>Att:</td> <td>Dean J. Kramer - Art Unit 3652</td> <td>Client:</td> <td>1033.18</td> </tr> <tr> <td>Fax:</td> <td>(703) 308-2181</td> <td>Pages:</td> <td>9 including coversheet</td> </tr> <tr> <td>Phone:</td> <td>(703) 308-2181</td> <td>Date:</td> <td>March 14, 2003</td> </tr> <tr> <td>Tex:</td> <td>US200309/681,814</td> <td>CC:</td> <td>David W. Pratt</td> </tr> <tr> <td colspan="4"> <input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle </td> </tr> </table>				To:	U.S. Patent & Trademark Office	From:	Ronald E. Smith	Att:	Dean J. Kramer - Art Unit 3652	Client:	1033.18	Fax:	(703) 308-2181	Pages:	9 including coversheet	Phone:	(703) 308-2181	Date:	March 14, 2003	Tex:	US200309/681,814	CC:	David W. Pratt	<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment <input type="checkbox"/> Please Reply <input type="checkbox"/> Please Recycle			
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